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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Allen v. Similasan Corp.

M. Frank Bednarz,
Objector.

Case No. 3:12-cv-0376-BAS (JLB)

**DECLARATION OF M. FRANK
BEDNARZ IN SUPPORT OF HIS
OBJECTION TO PROPOSED
SETTLEMENT IN *ALLEN V.
SIMILASAN CORP.***

Judge: Hon. Cynthia Bashant
Courtroom: 4B
Date: August 1, 2016
Time: 10:30 a.m.

Allen v. Similasan, Case No. 3:12-cv-0376-BAS (JLB)

DECLARATION OF M. FRANK BEDNARZ IN SUPPORT OF HIS
OBJECTION TO PROPOSED CLASS ACTION SETTLEMENT

INTRODUCTION

I, Michael Frank Bednarz, declare as follows:

1. I have personal knowledge of the facts set forth herein and, if called as a witness, could testify competently thereto.

2. My home address is 1145 E. Hyde Park Blvd. Apt. 3A, Chicago, IL 60615.

3. On June 29, 2016 I purchased Similasan Anxiety Relief Globules, 154 doses, NDC No. 59262-602-30 from Amazon.com using my credit card with two-day delivery to my home address. A true and accurate copy of the receipt that Amazon.com provided is attached as **Exhibit 1**.

4. My purchase was for personal use and not resale. Neither I nor any of my immediate family members are an employee, officer, director, legal representative, heir, or successor of Similasan Corporation or any affiliated entity.

5. I have never before filed an objection to a class action settlement. My attorney, Theodore H. Frank, has represented numerous objectors and secured many improved settlements on behalf of unnamed class members. His history of objections is set forth in the Declaration of Theodore H. Frank, which will be contemporaneously filed in support of my objection.

6. I bring this objection because I believe the proposed settlement is astoundingly unfair, and I hope to protect the interests of unnamed class members. I have no intention of settling this objection for any sort of side payment, and I would gladly agree not to accept any payment for settling this objection. Neither I nor my counsel should be compensated unless valuable relief is delivered to the entire class.

7. I saved true and accurate copies of several websites in support of my objection to the proposed class action settlement in the above-captioned matter. Exhibits 2-9 are true and accurate copies of various internet pages and online pdf documents as they appeared on June 30, 2016.

1 8. A true and accurate copy of Similisan's webpage "About Homeopathy"
2 available at <http://www.similasanusa.com/about-homeopathy>, is attached as **Exhibit 2**.

3 9. The same internet address (URL) was archived by the Internet Archive on
4 January 30, 2016 and is available to the public. A true and accurate copy of this archive copy,
5 at [https://web.archive.org/web/20160130024123/http://similasanusa.com/about-](https://web.archive.org/web/20160130024123/http://similasanusa.com/about-homeopathy)
6 [homeopathy](https://web.archive.org/web/20160130024123/http://similasanusa.com/about-homeopathy), is attached as **Exhibit 3**.

7 10. I understand that the website depicted in Exhibit 3 is an automatically-saved
8 copy of how the Similasan.com site appeared on January 30, 2016. The Internet Archive
9 explains this at their webpage available at <https://archive.org/legal/faq.php>. A true and
10 accurate copy of this webpage is attached as **Exhibit 4**.

11 11. A true and accurate copy of the Food and Drug Administration webpage for
12 Compliance Policy Guidance § 400.400 available at
13 [http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/ucm0](http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/ucm074360.htm)
14 [74360.htm](http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/ucm074360.htm) is attached as **Exhibit 5**.

15 12. A true an accurate copy of "Mark Land, Mark Phillips, Eric Foxman, American
16 Association of Homeopathic Pharmacists," listed by the FDA as being given April 20, 2015,
17 an available at <http://www.fda.gov/downloads/Drugs/NewsEvents/UCM443498.pdf> is
18 attached as **Exhibit 6**.

19 13. A true an accurate copy of American Association of Homeopathic Pharmacists
20 (AAHP) webpage titled "Voting Members" and available at
21 <http://www.aahp.info/membership/members/voting-members/> is attached as **Exhibit 7**.

22 14. A true an accurate copy of AAHP's Consumer Advertising Guideline for Over-
23 the-Counter Homeopathic Medicines available at [http://www.aahp.info/position-](http://www.aahp.info/position-statements/consumer-advertising-guideline-for-over-the-counter-homeopathic-medicines/)
24 [statements/consumer-advertising-guideline-for-over-the-counter-homeopathic-medicines/](http://www.aahp.info/position-statements/consumer-advertising-guideline-for-over-the-counter-homeopathic-medicines/) is
25 attached as **Exhibit 8**.

26 15. A true and accurate copy of Comments of the Staff of the Federal Trade
27 Commission submitted to the FDA on August 21, 2015 and available at

1 https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-
2 [food-drug-administration-regarding-current-use-human-drug-biological-](https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-)
3 [products/150821fdahomeopathic.pdf](https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-) is attached as **Exhibit 9**.

4
5 I declare under penalty of perjury under the laws of the United States of America that
6 the foregoing is true and correct.

7 Executed on July 1, 2016, in Chicago, Illinois.

8 
9 M. Frank Bednarz

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically served the foregoing on all CM/ECF participating attorneys at their registered email addresses, thus effectuating electronic service under S.D. Cal. L. Civ. R. 5.4(d).

DATED this 1st day of July, 2016.

/s/ Theodore H. Frank
Theodore H. Frank

**CERTIFICATE OF SERVICE PURSUANT TO CLASS NOTICE
AND PRELIMINARY APPROVAL ORDER**

Pursuant the requirements of class notice and Preliminary Approval Order, Dkt. 204 ¶ 23, I hereby certify that on this day I caused service of the forgoing on the following parties:

| | |
|---|-----------------------------|
| Ronald A. Marron Law Offices of Ronald A. Marron, APLC 651 Arroyo Drive San Diego, CA 92103 Telephone: 619-696-9006 | <i>Via Federal Express</i> |
| Michelle Gillette Crowell & Moring LLP 275 Battery St., 23rd Floor San Francisco, CA 94111 Telephone: 415-986-2800 | <i>Via Federal Express</i> |
| Allen v. Similasan c/o KCC LLC P.O. Box 8060 San Rafael, CA 94912-8060 | <i>Via First Class Mail</i> |

DATED this 1st day of July, 2016.

/s/ Theodore H. Frank
Theodore H. Frank